IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3019 OF 2005

Laxmi Anjnaya ... Petitioner

V/s.

The Union of India & Ors. ... Respondents

Mr. Bhavesh Parmar for the petitioner.
None for the respondents.

CORAM : F.I. REBELLO &
ANOOP V. MOHTA,JJ.
DATED : 22nd November, 2006

P.C.

. Rule. Heard forthwith.

2. The petitioner was employed with the respondents. It is case of the petitioner that she was issued letter of regular appointment from 7th February, 1996 and placed on probation with effect from 15th March, 1996. The petitioner retired on 28th February, 2005 on attaining the age of superannuation, which is 60 years. The respondents have a pension scheme under which an employee would be entitled to pension, if an employee has put in service of 10 years or more. Considering the date of regular appointment and the date on which the petitioner superannuated the period is less than ten years.

. It is, however, the case of the petitioner that she has been working from 1973 till 2005 continuously. The petitioner relies on the letter dated 12th May, 2005, wherein reference is made to a certificate issued by the Dy. Logistic Office, INHS, Asvini of 30th June, 1995 which certifies that the petitioner was appointed as Casual Laborer (Rice Cleaner) with effect from 1973. The letter also records that the petitioner has put in as per their calculation 08 years, 11 months and 06 days of regular service. The case of the petitioner is that the respondents have issued a notification dated 19th February, 1988. The relevant portion of which reads as under: -

> "In some cases, employees paid from contingencies are employed in types of work requiring services of whole-time workers and are paid on monthly rates of pay or daily rates computed and paid on monthly basis and on being found fit brought on to regular establishment. The question whether in such cases service paid from contingencies should be allowed to count for pension and if so, to what extent has been considered in the National Council and in pursuance of the recommendation of the Council, it has been decided that half the service paid from contingencies will be allowed to court towards pension at the time of absorption in regular employment subject to the following conditions: ....."

3. Relying on this notification, the learned

Counsel contends that if the petitioner's service from 1973 to 1995 is considered, that would suffice to give petitioner 10 years of regular service, which will entitle the petitioner for pension. Our attention is also invited to a similar issue arose before this Court in Writ Petition No. 939 of 2001 decided on 27th July, 2001 in the case of **Indian Naval Employees' Union V/s. Material Superintendent and Anr.** The learned Bench of this Court then considered the casual period of service from 1981 to 1994.

. The petitioner, therefore, considering the period of casual service would have 10 years of qualifying service if the casual service is considered. In the instant case, the petitioner claims from 1972 based on the certificate that she was employed as Casual Labour. The petitioner in the instant case had short service of about one year and one month. If 1/2 service of the petitioner as casual labour is considered from the year 1972 to 1995, the petitioner completes the qualifying service of ten years.

4. In the light of above, we allow this petition and make Rule absolute in terms of prayer clause (a).

The entire exercise to be completed within four months from today.

5. Rule made absolute accordingly. There shall be no order as to costs.

[F.I. REBELLO, J.]

[ANOOP V. MOHTA, J.]